

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23837-2020 (O&M)
Date of Decision:- 7.2.2022

Gurmeet Singh @ Geeti

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Gurmohan Singh Bedi, Advocate for the petitioner.

Mr. M.S. Dullat, Addl. A.G, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No. 71 dated 12.4.2020 under Sections 307, 323, 324, 326, 353, 186, 332, 335, 148, 149, 188, 427, 506 IPC and Section 51 of the Disaster Management Act, 2005 and Section 3 of the Prevention of Damage to Public Property Act, 1984 at Police Station Sadar, District Patiala.
2. The FIR in question was lodged at the instance of Inspector Bikar Singh wherein it is alleged that on 12.4.2020 when he alongwith other police officials was present at the main gate of vegetable market then at about 5:30 a.m., a white coloured vehicle i.e. ISUZU D-MAX was signalled to stop by the employee of the Mandi Board Yadwinder Singh, who demanded a pass to be shown with regard to purchasing of vegetables from its driver as there were restrictions in movement on account of spread of pandemic COVID-19.

However, the Sikh driver who was *Nihang* forcibly took his vehicle inside the vegetable market without showing any pass and later made a u-turn and hit against the main gate of the vegetable market and also hit against the barricades in an attempt to kill the employees standing there. However, the employees managed to save their lives by jumping to the side. However, when the vehicle stopped having stuck into the barricades, Balwinder Singh and his son Jagmeet Singh, residents of Village Amargarh, District Sangrur, currently residing at Dera Khichri Sahib, Bant Singh and Nirbhae Singh, who were also stated to be residents of Dera Khichri Sahib accompanied by 2-3 unknown Nihang Sikhs alighted from the vehicle carrying swords and sticks and attacked the police party and employee of the Mandi Board. The driver of the vehicle namely Balwinder Singh gave a blow to ASI Harjit Singh with his sword aiming at his head but ASI Harjit Singh in order to protect himself raised his left hand and resultantly his left wrist was absolutely chopped off and fell on ground. Balwinder Singh is alleged to have attacked ASI Harjit Singh several times.

3. It is further alleged that Nihang Bant Singh attacked Yadwinder Singh, employee of the Mandi Board with a sword. Nihang Nirbhae Singh attacked ASI Ragubir Singh with stick. The fourth Nihang Jagmeet Singh attacked the driver ASI Raj Singh with a sword hitting him on his right knee. Thereafter, all the Nihangs are also alleged to have attacked Inspector Bikar Singh. Nihang Balwinder Singh is also alleged to have given a blow with sword hitting Inspector Bikar Singh on his back. Nihang Jagmeet Singh is stated to have inflicted a blow with sword on the left elbow of Inspector Bikar Singh - complainant. Thereafter, all of them caused injuries with

sticks and swords while he fell down and also caused more injuries to Harjit Singh and Yadwinder Singh. After causing injuries said Balwinder Singh, Jagmeet Singh and other Nihangs ran away from the spot alongwith their swords and sticks after reversing their vehicle and while issuing threats.

4. As per the case of prosecution, the following number of injuries were sustained by the complainant and other officials present at the spot :-

1. ASI Harjit Singh sustained 2 injuries as a result of a sharp edged weapon as recorded in MLR No. MLR/GSK/83/20.
2. Inspector Bikram Singh sustained 6 injuries, out of which 2 injuries were caused with a sharp edged weapon as recorded in MLR No. MLR/GSK/84/20.
3. ASI Raj Singh sustained one injury with a sharp edged weapon as recorded in MLR No. MLR/GSK/85/20.
4. Yadwinder Singh sustained 7 injuries, out of which one injury was caused with a sharp edged weapon as recorded in MLR No. MLR/GSK/86/20.
5. ASI Raghbir Singh sustained 2 injuries caused with a blunt weapon as recorded in MLR No. MLR/GSK/88/20.

5. The learned counsel for the petitioner has submitted that the petitioner is nowhere named in the FIR and is alleged to have been nominated on the basis of a disclosure statement made by co-accused Balwinder Singh and also Nirbhae Singh, who were arrested later in the day when the police raided the premises of Dera i.e. Dera Khichri Sahib.

6. The learned counsel has further submitted that in any case even if the said disclosure statements of co-accused, which hardly carry any evidentiary value are taken to be correct, the petitioner was merely carrying a stick and is not attributed any specific injury. It has further been submitted that on the last date of hearing i.e. on 6.12.2021, the State had been directed to clarify his stand as regards the video recording which is part of the challan and to inform as to whether the presence of the petitioner is also reflected in the said video footage but in the reply filed by the State, the State has categorically stated that the petitioner is not shown in the said video footage. The learned counsel has submitted that in view of the aforestated circumstances and the fact that the petitioner has been behind bars for a substantial period of 1½ years, he deserves to be released on bail.
7. On the other hand, the learned State counsel has vehemently opposed the petition and has submitted that since the petitioner was part of an unlawful assembly and that the members of the said unlawful assembly had wildly caused injuries to the police officials while they were performing their duty and had recklessly used their swords and had even chopped off the wrist of one of the police officials, no case for grant of bail is made out. It has been submitted that the petitioner being a member of unlawful assembly and having been found to have participated in the occurrence has to be burdened with the liability and consequences for such an occurrence. It has further been submitted that the name of the petitioner surfaced on the day of occurrence itself when other co-accused were arrested by the police from their Dera and as such, it cannot be said that the petitioner has been falsely involved. It may here be mentioned that when the police had raided

the premises of said Dera Khichri Sahib, the accused offered resistance and even fired from the guns and on account of which another FIR came to be lodged against Balwinder Singh, Jagmeet Singh, Nirbhae Singh, Bant Singh and their companions i.e. FIR No. 45 dated 12.4.2020 under Sections 188, 307, 353, 186, 269, 270, 294, 148, 149 IPC and under Section 51(a), 51(b), 54(d) of the Disaster Management Act, 2005 and under Sections 25/54/59 of the Arms Act and under Sections 3 and 4 of the Explosive Act and also under Sections 13, 18, 20 of UAPA, 1967 at Police Station Passiana. The learned State counsel has, however, informed that the petitioner has been behind bars since the last about 1½ years and that as on date only 2 out of the cited 50 PWs have been examined. It has further been informed that the petitioner happens to be involved in one more case for offence under Section 306 IPC lodged in District Sangrur.

8. I have considered rival submissions addressed before this Court.
9. It is not in dispute that the petitioner is not specifically named in the FIR and as only four people are specifically named therein apart from allegation that the said four persons were accompanied by 2-3 unknown persons. The solitary grievous injury is attributed to co-accused Balwinder Singh. The unknown persons are not attributed any specific injury. Rather the disclosure statement of accused Balwinder Singh clearly shows that the petitioner was armed with a stick and that when Balwinder Singh and others left from the place of occurrence, the petitioner Gurmeet Singh @ Geeti walked towards bus-stand in order to go to his village. Such like conduct does not seem to be plausible inasmuch as the petitioner on his own, simply carrying a stick could not have walked away from the place of occurrence to

bus stand when several police officials were also present at the spot. As already stated above, the petitioner is alleged to be merely carrying a stick and is not attributed any specific injury. The petitioner, in any case, has been behind bars for a substantial period of 1½ years and conclusion of trial is likely to consume time as only 2 out of 50 PWs have been examined.

10. In these circumstances, the petition merits acceptance and is hereby accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
11. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

7.2.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No